

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

REMOVAL OF CONFIRM SERVICE FROM THE  
MARKET-DOMINANT PRODUCT LIST

Docket No. MC2013-38

**REQUEST OF THE UNITED STATES POSTAL SERVICE  
TO REMOVE CONFIRM SERVICE  
FROM THE MARKET-DOMINANT PRODUCT LIST**  
(February 1, 2013)

In accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, the United States Postal Service hereby requests that Confirm® service be removed from the Market-Dominant product list, as outlined in the proposed Mail Classification Schedule (MCS) language.

Pursuant to 39 U.S.C. § 404(b) and 39 C.F.R. § 3.4(f), the Governors authorized this request on October 5, 2012; a copy of the Governors' resolution is included at Attachment A. A Statement of Supporting Justification, which demonstrates that the request fulfills the criteria set forth in Section 3642, is included at Attachment B. The proposed Mail Classification Schedule (MCS) language appears at Attachment C. As required by 39 U.S.C. § 3642(d)(1), a notice describing the request will be published in the Federal Register.

As discussed in the Statement of Supporting Justification, Confirm service has provided added value to mailers by allowing them to receive raw processing scan data when identifying barcodes (Intelligent Mail® or PLANET Code®) are placed on each mail piece. These scan data are used to estimate when mail pieces will be delivered to their intended recipients. Mailers subsequently utilize

this information in a variety of ways, including coordinating e-mail advertising campaigns with the delivery of catalogues.

Understanding that the scan data offered through Confirm® service provide added value to mailers, the Postal Service has incorporated this product's functionality into IMb Tracing™, which is available at no fee as part of the classes of mail containing letters and flats. Consequently, mailers will continue to have access to this valuable scan information when they place an Intelligent Mail® barcode (IMb™) on their mail pieces and register their Mailer Identification (MID) code. Based on the availability of this no fee alternative, and the fact that all Confirm service subscriptions expired on January 21, 2013, the Postal Service believes that this product's removal from the Market-Dominant product list fulfills all of the applicable criteria set forth under section 3642. Confirm service's removal is also consistent with the Commission's finding in Docket No. R2012-3 that "the explanation for eliminating the Confirm service when existing agreements expire is persuasive."<sup>1</sup>

In short, approving this request will bring the MCS up-to-date by recognizing that Confirm service has been replaced by IMb Tracing™. As described in the Statement of Supporting Justification, the proposed changes fulfill all of the criteria set forth in 39 C.F.R. § 3020.32.

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<sup>1</sup> Docket No. R2012-3, Order No. 987 – Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, at 50 (November 22, 2012).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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## **ATTACHMENT A**

**RESOLUTION OF THE GOVERNORS  
OF THE  
UNITED STATES POSTAL SERVICE  
Resolution No. 12-09  
New Prices and Product Descriptions  
for Market Dominant Categories of Mail**


**RESOLVED:**

Pursuant to section 404(b) and chapter 36 of title 39, United States Code, the Governors establish new prices for market dominant products, and modifications of the product descriptions in the Mail Classification Schedule (MCS) for market dominant products, as detailed in the schedules appended hereto. These changes shall become effective on January 27, 2013.

Postal management is directed to provide the required public notice and to file with the Postal Regulatory Commission notice of the adjustment in prices in accordance with Subpart B, Part 3010, of title 39, Code of Federal Regulations (CFR). Postal management is also directed to provide notice to the Commission of the modifications of the product descriptions in the MCS in accordance with 39 CFR Part 3010 et seq. and 39 CFR Part 3020 et seq., and to file any necessary requests for product list changes pursuant to 39 CFR Part 3020.30 et seq.

Postal management is also authorized to file the alternative prices included in Tab 5, should the Commission not approve the prices initially filed.

The foregoing resolution was adopted by the Governors on October 05, 2012.

  
Julie S. Moore  
Secretary, Board of Governors

## ATTACHMENT B

### Statement of Supporting Justification

I, Steve Monteith, Manager of Transactions & Correspondence, sponsor the Postal Service's request that the Postal Regulatory Commission (Commission) remove Confirm® service from the Market-Dominant product list, as outlined in the proposed Mail Classification Schedule (MCS) language. This Statement supports the request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32, as indicated below. I attest to the accuracy of the information contained herein.

*(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.*

As demonstrated below in subsections (b) through (i), the change complies with the applicable statutory provisions.

*(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c).*

Section 3622 establishes the system for regulating rates and classes for Market-Dominant products. Subsection (b) sets forth the regulatory system's objectives. Subsection (c) describes the factors the Commission shall take into account in establishing or revising the system. Subsection (d) delineates the process for raising rates. To the extent that the removal of Confirm service from the Market-Dominant product list implicates the objectives and factors set forth in

subsections (b) and (c), it is consistent with them; it does not implicate the processes outlined in subsection (d).

Confirm® service is a paid subscription product that allows mailers who place identifying barcodes (Intelligent Mail® or PLANET Code®) on their mail pieces, to obtain the raw scan data for those items as they pass through the Postal Service's processing network. The raw scan data are then made available to the mailer (or their agent), and can be used to estimate when the mail pieces will be delivered to their intended recipients. This information is utilized in different ways by different mailers. For instance, some mailers use the scans from catalogues to coordinate e-mail advertising campaigns, while others use scans from remittances to prevent delinquency notices from being sent to their customers.

Beginning in October of 2011, the Postal Service signaled that it intended to discontinue Confirm service as a paid subscription product, and would replace it with IMb Tracing™.<sup>1</sup> In keeping with this goal, the Postal Service set the price of Confirm service to \$0.00 in Docket No. R2012-3 and explained that existing customer subscriptions would be allowed to expire, effective January 22, 2012.<sup>2</sup> In that docket the Commission determined that “the explanation for eliminating the Confirm service when existing agreements expire is persuasive.”<sup>3</sup> However, after receiving comments from mailers concerning the need for additional time to

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<sup>1</sup> 76 Fed. Reg. 65641 (October 24, 2011). IMb Tracing is offered (at no fee) as part of the classes of mail containing letters and flats (First-Class Mail®, Periodicals®, and Standard Mail®) and provides mailers with near real-time tracking information about their mail pieces. Mailers may receive IMb Tracing information by using Intelligent Mail barcodes that contain an appropriately registered Mailer Identification (MID) code.

<sup>2</sup> Docket No. R2012-3, Notice of Market-Dominant Price Adjustment, at 27 (October 18, 2011).

<sup>3</sup> Docket No. R2012-3, Order No. 987 – Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, at 50 (November 22, 2012).

phase out their use of PLANET Codes®, the Postal Service allowed mailers to extend their Confirm® service subscriptions for one additional year.<sup>4</sup> That additional year ended on January 21, 2013. In Docket No. R2013-1, the Postal Service reiterated its goal of discontinuing Confirm service and signaled its intent to submit the present filing with the Commission.<sup>5</sup>

Given that the scan data provided through Confirm service will remain available (at no fee) as part of IMb Tracing™, the objectives in section 3622(b), such as maintaining “high quality service standards”<sup>6</sup> and a “just and reasonable” schedule for classifications,<sup>7</sup> shall continue to be met. Similarly, looking at the factors in section 3622(c), the continued availability of the scan data means, for example, that there is an “available alternative means” to receiving the data provided by Confirm service “at reasonable costs.”<sup>8</sup> Moreover, the removal of Confirm service from the Market-Dominant product list will help ensure the “simplicity of structure” for mail classification.<sup>9</sup>

*(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

The request to remove Confirm service from the Market-Dominant product list does not implicate the standards set for in Section 3633 for Competitive products.

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<sup>4</sup> 76 Fed. Reg. 79074 (December 21, 2011).

<sup>5</sup> Docket No. R2013-1, Notice of Market-Dominant Price Adjustment, at 31 (October 11, 2012).

<sup>6</sup> 39 U.S.C. § 3622(b)(3).

<sup>7</sup> 39 U.S.C. § 3622(b)(8).

<sup>8</sup> 39 U.S.C. § 3622(c)(4).

<sup>9</sup> 39 U.S.C. § 3622(c)(6).



*(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs; (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The Postal Service's request to remove Confirm® service from the Market-Dominant product list does not attempt to classify any product as Competitive.

*(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601.*

As demonstrated by the attached MCS language, Confirm service falls outside the scope of the letter monopoly. As set forth in 18 U.S.C. §1696(a), the postal monopoly covers the conveyance of letters. A letter has been defined as "a message directed to a specific person or address and recorded in or on a tangible object..."<sup>10</sup> A message has been further defined as "any information or intelligence."<sup>11</sup>

In contrast, Confirm service permits customers to obtain electronic information regarding when and where mail pieces undergo barcode scans in mail processing operations. Though the raw scan data provided to customers may be viewed as "information or intelligence," those data are not ultimately

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<sup>10</sup> 39 C.F.R. § 310.1(a). A tangible object used to record a letter may include, but is not limited to "paper (including paper in sheet or card form), recording disks, and magnetic tapes." 39 C.F.R. § 310.1(a)(1).

<sup>11</sup> 39 C.F.R. § 310.1(a)(2).

recorded on a tangible object being conveyed as mail. Consequently, Confirm® service does not fall within the scope of the postal monopoly.

*(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

While certain mail service providers currently purchase and resell the scan data provided by Confirm service, the Postal Service is not aware of any other private sector enterprise offering a similar product.

*(g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification.*

Given that the scan data provided through Confirm service will remain available (at no fee) as part of IMb Tracing™, the Postal Service does not believe that customers will oppose the elimination of this product. Indeed, the only comments received concerning the elimination of Confirm service were requests by certain customers for more time to phase out their use of PLANET Codes®. As explained above, the Postal Service accommodated this request by allowing customers to extend their Confirm service subscriptions by one additional year. That additional year ended on January 21, 2013.

*(h) Provide a description of the likely impact of the proposed modification on small business concerns.*

The removal of Confirm service from the Market-Dominant product list is not likely to have a material impact on small business concerns. To the extent that the elimination of Confirm service has forced some small businesses to

adopt the use of IMb™ technology, the Postal Service already allows those businesses to print Intelligent Mail® barcodes using the Intelligent Mail Small Business Tool.

- (i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

Making the modifications to the Market-Dominant product list requested herein would simply recognize that the data provided through Confirm® service are still available (at no fee) through IMb Tracing™. Given that contracts for Confirm service have already expired and that customers are already utilizing IMb Tracing, the Postal Service requests that the Commission approve the removal of Confirm service from the Market-Dominant product list as soon as possible.

## ATTACHMENT C

### MAIL CLASSIFICATION CHANGES

(Deletions are marked with strike-through.)

#### PART A

#### MARKET DOMINANT PRODUCTS

**1001 MARKET DOMINANT PRODUCT DESCRIPTIONS**

\* \* \* \* \*

**1500 Special Services**

\* \* \* \* \*

**1530 Confirm Service**

**1530.1 Description**

- a. ~~Confirm Service permits subscribing customers to obtain electronic information regarding when and where mailpieces undergo barcode scans in mail processing operations. Destination Confirm Service is for a subscriber's outgoing mail; Origin Confirm Service is for reply mail incoming to a customer. Scan information is not guaranteed for every piece of qualifying mail.~~
- b. ~~Confirm Service provides information for automation-compatible letter-size and flat-size First-Class Mail, Priority Mail, Standard Mail, Periodicals, and Package Services pieces.~~
- c. ~~Confirm Service is available to subscribers authorized by the Postal Service. Authorization requires that a customer demonstrate the capabilities of producing mailpieces with Confirm-compatible barcodes.~~
- d. ~~Subscribers may purchase Confirm Service by subscribing to Bronze, Silver, Gold, or Platinum subscription levels, based on subscription duration and number of scans.~~
  - \* ~~The Bronze subscription has a term of one year with the use of one identification code and up to 200,000 scans.~~
  - \* ~~The Silver subscription has a term of three months and includes the use of one identification (ID) code and up to 15 million scans. Subscribers may license the use of additional scans in blocks of 2 million scans at any time prior to expiration of the subscription.~~
  - \* ~~The Gold subscription has a term of twelve months and includes the use of one ID code and up to 50 million scans. Subscribers may license the use of additional scans in blocks of 6 million scans at any time prior to expiration of the subscription. A Gold subscription may be upgraded to a Platinum subscription at any time prior to the expiration of the Gold subscription by paying the difference in the respective subscription fees. Upgrading does not extend the term of the underlying subscription.~~
  - \* ~~The Platinum subscription has a term of twelve months and includes the use of three ID codes and unlimited scans.~~

- e. ~~Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first. Subscribers also may license the use of additional ID codes for a term of 12 months, which extends beyond expiration of the subscription if the subscription is renewed.~~

#### 1530.2 Prices

	(\$)
Bronze	
— Subscription (12 months)	0.00
— Additional Scans (block of 10,000)	0.00
Silver	
— Subscription (3 months)	0.00
— Additional Scans (block of 2 million)	0.00
Gold	
— Subscription (12 months)	0.00
— Additional Scans (block of 6 million)	0.00
Platinum	
— Subscription (12 months)	0.00
Additional ID Codes	
— Annual	0.00
— Quarterly	0.00